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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Statement of Issues  
11 Against:

Case No. *2013-450*

12 **MICHAEL ALLEN BELLE**

**STATEMENT OF ISSUES**

13 Registered Nurse License Applicant

14 Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely  
19 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department  
20 of Consumer Affairs.

21 2. On or about August 3, 2012, the Board of Registered Nursing, Department of  
22 Consumer Affairs received an Application for Licensure by Endorsement from Michael Allen  
23 Belle ("Respondent"). On or about July 31, 2012, Michael Allen Belle certified under penalty of  
24 perjury to the truthfulness of all statements, answers, and representations in the application. The  
25 Board denied the application on October 24, 2012.

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## JURISDICTION AND STATUTORY PROVISIONS

3. This Statement of Issues is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that code.

5. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license."

6. Section 490 of the Code states:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license

was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

7. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

...

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

### **REGULATORY PROVISIONS**

8. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Conviction of Substantially Related Crimes)**

3 9. Respondent's application is subject to denial under section 480, subdivision (a)(1) of  
4 the Code in conjunction with California Code of Regulations, title 16, section 1444 in that  
5 Respondent was convicted of a crime substantially related to the qualifications, functions and  
6 duties of a registered nurse, as follows:

7 10. On or about August 24, 2000, Respondent pled guilty to and was convicted of  
8 violating one misdemeanor count of Theft Petit in Fourth Judicial District Court of Ada County in  
9 Idaho. Respondent was sentenced to 365 days in jail and was placed on probation for a period of  
10 2 years, with terms and conditions. The circumstances underlying the conviction are that on or  
11 about May 18, 2000, Boise Police Department officers interviewed Respondent in connection  
12 with a burglary. Specifically, Respondent went to three different pawn shops to pawn a Makita  
13 drill until he was successful at Singer's Pawn Shop. The officers interviewed Respondent in  
14 connection with the burglary. Respondent stated that he saw the back door of Anytime Lock and  
15 Key open and entered the property to see if there was something he could take. The Respondent  
16 admitted that upon entering the property he saw a blue box that contained a Makita Drill and took  
17 the drill so that he could pawn it for money. Additionally, Respondent told officers that he did  
18 not have a job and was trying to support his drug habit.

19 **SECOND CAUSE FOR DENIAL OF APPLICATION**

20 **(Act Involving Dishonesty, Fraud or Deceit)**

21 11. Respondent's application is subject to denial under section 480, subdivision (a)(2) of  
22 the Code in that Respondent committed an act involving dishonesty with the intent to  
23 substantially benefit himself when he stole a Makita drill and pawned it in an attempt to support  
24 his drug habit. The conduct is described in more particularity in paragraph 10 above, inclusive  
25 and hereby incorporated by reference.

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1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Acts Constituting Grounds for Discipline of Licensee)**

3 12. Respondent's application is subject to denial under section 480, subdivision (a)(3) of  
4 the Code in that Respondent committed acts, which if done by a licentiate of the business or  
5 profession, would be grounds for suspension or revocation of licensee when he was convicted of  
6 a crime substantially related to the qualifications, functions and duties of a registered nurse in  
7 violation of section 490 and section 2761, subdivision (f) of the Code in conjunction with  
8 California Code of Regulations, title 16, section 1444. The conviction is described in more  
9 particularity in paragraph 10 above, inclusive and hereby incorporated by reference.

10 13. Respondent's application is subject to denial under section 480, subdivision (a)(3) of  
11 the Code in that Respondent committed acts, which if done by a licentiate of the business or  
12 profession, would be grounds for suspension or revocation of licensee on the grounds of  
13 unprofessional conduct when he stole and pawned a drill to support his drug habit in violation of  
14 section 2761, subdivision (a) of the Code. The conduct is described in more particularity in  
15 paragraph 10 above, inclusive and hereby incorporated by reference.

16 14. Respondent's application is subject to denial under section 480, subdivision (a)(3) of  
17 the Code in that Respondent committed acts, which if done by a licentiate of the business or  
18 profession, would be grounds for suspension or revocation of licensee in that Respondent violated  
19 provisions of the Nursing Practice Act in violation of section 2761, subdivision (d) of the Code.  
20 The violations are described in more particularity in paragraphs 12 and 13 above, inclusive and  
21 hereby incorporated by reference.

22 **DISCIPLINARY CONSIDERATIONS**

23 15. To determine the degree of discipline, Complainant alleges that on or about March  
24 12, 2009, Respondent agreed to abide by the terms of a Nurse Monitoring Contract with the  
25 Program for Recovering Nurses in Idaho. In this contract, Respondent recognized that he suffers  
26 from chemical abuse/dependency and/or mental condition(s) that may impair his ability to  
27 practice nursing safely.

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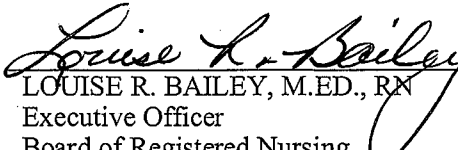
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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Michael Allen Belle for a Registered Nurse License;
2. Taking such other and further action as deemed necessary and proper.

DATED: December 4, 2012

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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